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Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Internal Claims and Appeals and External Review Processes Under the Patient Protection and Affordable Care Act

Comment On: EBSA-2010-0019-0002

Group Health Plans and Health Insurance Issuers: Internal Claims and Appeals and External Review Processes

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General Comment

Legal Assistance Foundation of Metropolitan Chicago

111 W. Jackson Boulevard, Suite 300

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July 25, 2011

To: Centers for Medicare and Medicaid Services (CMS), Internal Revenue Service (IRS),
Department of Labor (DOL)

Re: Group Health Plans and Health Insurance Issuers: Rules Relating to Internal Claims and
Appeals and External Review Processes (76 Fed. Reg. 37208 et seq.)

The Legal Assistance Foundation of Metropolitan Chicago (LAF) is the largest provider of civil legal services to the low-income population in Chicago and Cook County, Illinois. Through our Health Law Project, LAF has represented many individuals who do not speak English as their first language and require language assistance.

The following comments are submitted in opposition to the “10% of county population” threshold for translation and oral interpretation of private plan materials in the internal review and appeals process as set forth in proposed rules at 26 CFR Part 54, 29 CFR Part 2590 and 45 CFR Part 147. (76 Fed. Reg. 37208 et seq.)

Insurance review and appeal rules are complicated and difficult to understand, even for clients for whom English is their first language. In our experience, lower income clients for whom English is not their first language face an even more daunting challenge in trying to understand, and make rational choices about, their review and appeal options.

Simply put, to limit the translation services as proposed is inconsistent with the priority of increasing access to health care.

The 10% standard is far too high. It is difficult to understand the basis for selecting this 10% standard to include in the proposed rule, since CMS conceded that 10% was too high for its Medicare Part C and D marketing materials and revised the threshold downward to 5%. Under the proposed regulations at issue here, LEP individuals will receive marketing materials in their primary languages but will not be able to access plan review and appeals in the same

Attachments

Group Health Plan Comments

Legal Assistance Foundation of Metropolitan Chicago
111 W. Jackson Boulevard, Suite 300
Chicago, IL 60604
July 25, 2011

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A more appropriate standard would be 5% of the plan's population or 500 persons in the plan's service area for large group plans, and 25% of the plan's population for small plans. Additionally, oral interpretation should be provided in all languages at all times. Clients who are not captured in the threshold for translation will have no ability to either read their notices or to call the plan and discuss the information in the notice unless this more appropriate standard is adopted and oral interpretation in all languages is required at all times.

Codification of the 10% figure into federal regulations would set forth a dangerous precedent, limiting fair and necessary information sharing with the LEP population. CMS, IRS and DOL should withdraw the proposed regulation and modify it to provide the maximum benefit to the 12 million LEP individuals in the U.S. that are expected to be affected.

Thank you.

Sincerely,



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